

REMARKS

1. *Claim Rejections – 35 USC § 102*

In response to examiner's 'Detailed Action' number 2 rejecting claim 8, Jackson (US 6,186,662) does not disclose coupling a weight to the base end to assist in defining a deployment trajectory when thrown as examiner asserts. Neither does it teach an opening in the base end. Applicant respectfully asks examiner to re-examine his references, figures 1 and 4 embodiments and column 5, lines 21-36 for any wording to throwing the bag or any reference to a trajectory. A claim is anticipated under § 102 "if each and every limitation is found either expressly or inherently in a single prior art reference." *Bristol-Myers Squibb Co. v. Ben Venue Labs, Inc.*, 246 F.3d 1368, 1374 (Fed. Cir. 2001). The limitation of tossing the bag in a trajectory defined by the weighted end is conspicuously missing in Jackson. Also since the Jackson bag is disclosed for securing contents under 'windy conditions' (see column 3, lines 12, 26, and 67 and column 4 line 2) it can not be argued that tossing the Jackson bag in the wind is inherently found in that reference. Also any reference to an opening in the base end is missing in Jackson. Therefore applicant respectfully requests that this rejection of claim 8 be withdrawn from consideration.

In response to examiner's 'Detailed Action' number 3, Cameron (US 4,713,033) lacks the element of having an opening at both ends of the bag as applicant claims in claim 8. Again, anticipation rejections under 35 USC 102 require each and every limiting element of applicant's invention to be present in the cited prior art. Since this ability to dispense line or cord from either end of the bag is a central and claimed element of the applicant's invention missing in the prior art, applicant requests that this rejection be withdrawn from consideration.

2. *Claim Rejections – 35 USC § 103*

In response to examiner's 'Detailed Action' number 5, MPEP § 2142 states "The examiner bears the initial burden of *factually* supporting any prima facie conclusion of obviousness. If the examiner does not produce a prima facie case, the applicant is under no obligation to submit evidence of nonobviousness." (Emphasis added). It is not the

applicant's burden to rebut the examiner's argument of obviousness when there has been no factual support for combining prior art references.

Applicant respectfully refers examiner to MPEP § 2143 which states the application of the criteria found in *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). "The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure." There is no explicit teaching, or suggestion to combine the Cameron line throw-bag (US 4,713,033) with the Witt cord dispensing bag (6,267,244 and US 6,478,157), nor is there factual reference to a reasonable expectation of success for the combination of Cameron over Witt.

Likewise, "The test for an implicit showing is what the combined teachings, knowledge of one of ordinary skill in the art, and the nature of the problem to be solved as a whole would have suggested to those of ordinary skill in the art." *In re Kotzab*, 217 F.3d 1365, 1370, 55 USPQ2d 1313, 1317 (Fed. Cir. 2000). See also *In re Fine*; 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). The examiner has not shown any factual suggestion or motivation either in the prior art or in the knowledge generally available to one of ordinary skill in the art to modify the line throw bag of Cameron to tossing electrical cord from either end of the Witt bag. Applicant therefore respectfully requests that the 103 rejections of claims 2-5 and 7 based on the cited prior art be withdrawn.

In response to examiner's 'Detailed Action' number 6, Witt teaches an 'annular support' made of a polycarbonate material such as the General Electric 'Lexan'®. Polycarbonates are lightweight plastics such as those popularly used for eyeglasses. The function of the annular support is to support the structure of the bag without adding significant weight. Therefore, regardless of its position at the center or the base of the bag, the annular support lacks sufficient weight to act as a ballast. See Witt, column 3 lines 31 through 39. Witt therefore teaches a lightweight annular support which prevents the collapse of the bag and not as a ballast in stationary or trajectory use. Applicant respectfully requests that the 103 rejection of claim 2 based on the prior art 'annular support' be withdrawn.

Dependent claims 4, 5 and 7 place further limitations on what is otherwise argued allowable subject matter. Therefore, Applicant respectfully submits that these claims also stand in a condition for allowance.

CONCLUSION

Based on the foregoing, Applicant respectfully submits that the deficiencies in the application have been corrected and that the proposed claims are neither anticipated nor rendered obvious by the prior art references cited by the Examiner. As such, Applicant believes that the claims are now in a condition for allowance, and action to that end is respectfully requested.

If any impediments to the allowance of this application for patent remain after the above amendments and remarks are entered, the Examiner is invited to initiate a telephone conference with the undersigned attorney of record.

The Commissioner is hereby authorized to charge any additional fee or to credit any overpayment in connection with this Amendment to Deposit Account No. 20-0100.

DATED this 12th day of April, 2007.

Respectfully submitted,

THORPE, NORTH, & WESTERN, LLP



Vaughn W. North
Attorney for Applicant
Registration No. 27,930

THORPE, NORTH, & WESTERN, LLP
8180 S. 700 E., Suite 350
Sandy, Utah 84070
(801) 566-6633 telephone
(801) 566-0750 facsimile

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